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E.O. 12958: DECL: 07/20/2016
TAGS: [PGOV](#) [KJUS](#) [KCOR](#) [TD](#)
SUBJECT: T&T CHIEF JUSTICE CASE: SYSTEM STRONG BUT TIED UP
IN KNOTS

REF: A. PORT OF SPAIN 00615

[1](#)B. PORT OF SPAIN 00736

Classified By: Charge d'affaires, Eugene P. Sweeney for reasons 1.4 (b/d)

[1](#)1. (U) Political and legal drama continues to swirl around Trinidad and Tobago's Chief Justice, Satnarine Sharma. The recent investigation into allegations that Sharma influenced the decision in the corruption case against former Prime Minister and Leader of the Opposition, Basdeo Panday (ref A), came to a head on July 14 when police officers went to his home in an attempt to arrest Sharma based on the charge of attempting to pervert the course of justice brought as a result of the investigation. Sharma and his team of top lawyers amended an existing injunction against the primary investigator to eventually include all officers of the police force, up to Commissioner of Police Trevor Paul. Such a move is unprecedented in T&T, which has caused furor in the media.

[1](#)2. (U) According to section 14 of the T&T Constitution, a person may file for an injunction if his or her rights "have been, are being or are likely to be" infringed. Sharma, being the highest legal expert in the land, used this article as the basis his filing. Further, according to former United National Congress Attorney General Ramesh Lawrence Maharaj, Sharma was also guided by previous Privy Council decisions that indicate abuse of process to bring someone to justice nullifies the case. Sharma argues that Article 137 of the Constitution provides a specific mechanism by which a Chief Justice may be impeached, and that by pursuing a criminal case the Government is abusing the process. Justice Judith Jones, who granted the much-amended injunction, explained her decision in these terms in a public statement that also called for restraint on all sides and in the press to avoid further escalating the situation.

[1](#)3. (C) State's Council, Israel Khan, revealed that since Sharma has been charged with perverting the course of justice, a criminal act, the state elected to use the more direct method of a police warrant, rather than Section 137. Khan explained, "If a Chief Justice is charged with murder, you don't wait to convene a tribunal to remove him, then to press charges." Essentially, the state has both options open to it in this case, as the Constitution does not specifically preclude a criminal case against a Chief Justice. Further, Khan noted that Sharma would not necessarily be suspended or removed from office upon being charged or incarcerated, but that the President would have the option to remove the Chief Justice. (COMMENT: Interestingly, President Richards has remained silent throughout the entire situation, possibly because of torn loyalties. Still, his inaction has disappointed some since he could provide a way out of an increasingly sticky situation. END COMMENT.)

¶4. (U) Attorney General John Jeremie took to the television on July 17 to explain the Government's actions to the public. In his statement, Jeremie alleged that the Chief Justice had put himself above the law through these injunctions. Further, Jeremie raised the specter of the legal system collapsing because the Chief Justice could defend himself in a court that he himself oversees. Jeremie nearly conceded defeat by noting that the Government cannot move forward with the case until the courts hear all of Sharma's applications and the legal knots are worked out. Prime Minister Manning has postponed a trip to Africa to monitor developments and to consult with the Cabinet as necessary.

¶5. (C) According to Maharaj, the Law Association (a body of lawyers and judges) has called an emergency meeting for July 20, at which they will consider bringing contempt charges against Jeremie for prejudging a politically charged issue that is before the courts. In fact, Khan has postponed vacation to attend the meeting, suspecting that Maharaj and other Opposition figures will use the meeting to score political points.

¶6. (C) COMMENT: This may be a "Marbury vs. Madison" moment for T&T. On one side, espoused by the Opposition, Sharma is standing up for the independence of the Judiciary and the inviolability of the procedures enshrined in the Constitution. On the other, the Chief Justice has been charged with a serious crime and should be made to answer; he has simply used his legal privilege to prevent the normal course of justice. In either case, the case is being played out legally and politically, rather than on the streets with weapons. Public opinion is solidifying largely along political/ethnic lines, with Indo-Trinis giving the Chief Justice the benefit of the doubt and Afro-Trinis giving the Government the benefit of the doubt. Interestingly, neither

the Government nor the Opposition has mounted an effective public relations campaign in order to court the all-important swing voters, though the AG's televised address was certainly a step in this direction. Post will continue to follow closely what we expect to be a long, drawn out contest. END COMMENT.

SWEENEY